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AMENDED IN ASSEMBLY MAY 6, 2014
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AMENDED IN ASSEMBLY MARCH 17, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1513

Introduced by Assembly Member Fox

January 15, 2014

An act to add and repeal Sections ~~602.55 and 602.56~~ *527.11 and 527.12* of the ~~Penal~~ *Code of Civil Procedure*, relating to residential property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1513, as amended, Fox. Residential property: possession by declaration.

Existing law allows a plaintiff, upon motion, to have immediate possession of the premises of a manufactured home, mobilehome, or real property by a writ of possession issued by a court and directed to the sheriff of the county or marshal, for execution, where it appears to the satisfaction of the court, after a hearing on the motion, from the verified complaint and from any affidavits filed or oral testimony given by or on behalf of the parties, that the defendant resides out of state, has departed from the state, cannot, after due diligence, be found within the state, or has concealed himself or herself to avoid the service of summons.

Existing law provides that every person who willfully commits a trespass is guilty of a misdemeanor.

This bill would, ~~until January 1, 2018, allow a property an owner, or an agent of the property owner, of residential property in the Cities of Palmdale and Lancaster in the County of Los Angeles or the City of Ukiah in the County of Mendocino, or an agent of the property owner,~~ to register vacant real property with the local law enforcement agency and to execute, under penalty of perjury, a Declaration of Ownership of Residential Real Property. By expanding the scope of the crime of perjury, this bill would impose a state-mandated local program.

This bill would *further* allow ~~a the property owner, or an agent of the property owner, of residential property in the Cities of Palmdale or Lancaster in the County of Los Angeles,~~ to file the Declaration of Ownership of Residential Real Property with the ~~district attorney~~ *local law enforcement agency* of the jurisdiction in which the property is located. The bill would require the property owner to post the filed declaration on the property listed in the declaration. The bill would require the local law enforcement agency with which the property is registered to respond as soon as practicable after being notified that an unauthorized person has been found on the property and take specified action, including requiring a person who is found on the property to produce written authorization to be on the property, and ~~advising notifying~~ any person who does not produce that authorization that he or she has 48 hours to obtain it, and is subject to arrest for trespass if he or she is subsequently found on the property without it. The bill would ~~provide that~~ *allow the property owner, or an agent of the property owner, to file an action for a temporary restraining order and injunctive relief against a person who is found on the property not less than 48 hours after being so notified is guilty of trespass and, if convicted, is subject to imprisonment in a county jail not exceeding one year, or a fine not exceeding \$1,000, or both that imprisonment and fine that person has been so notified. The bill would provide that a property owner, or an agent of the property owner, who files a declaration that includes false information regarding the right to possess the property is liable to any person who, as a result of the declaration, vacates the property, for damages, as specified.* By imposing new duties on local law enforcement agencies and ~~by expanding the scope of the crime of trespass~~ this bill would create a state-mandated local program.

The bill would provide that its provisions apply only to one-unit to four-unit residences in the Cities of Palmdale and Lancaster in the

County of Los Angeles *and the City of Ukiah in the County of Mendocino. This bill would provide that its provisions would be operative until January 1, 2018.*

This bill would make legislative findings and declarations as to the necessity of a special statute for the Cities of Palmdale and Lancaster in the County of Los Angeles *and the City of Ukiah in the County of Mendocino.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that the
2 practice of squatting on vacant property is a public nuisance and
3 is detrimental to the health, safety, and economy of local
4 communities and to the rights of real property owners. The intent
5 of this section is to provide a means to ~~deter~~ *prevent* squatting at
6 ~~an early stage in vacant residential real property~~ and to provide
7 ~~a second chance~~ *timely and orderly procedure* for squatters to
8 vacate the premises in lieu of arrest. The Legislature also declares
9 this section not to be an abridgment of other statutes relating to
10 trespass or civil eviction proceedings.

11 ~~SEC. 2. Section 602.55 is added to the Penal Code, immediately~~
12 ~~following Section 602.5, to read:~~

13 ~~602.55.—~~

14 *SEC. 2. Section 527.11 is added to the Code of Civil Procedure,*
15 *to read:*

16 *527.11. (a) The owner or owner’s agent of vacant real property*
17 *may register the property with the local law enforcement agency*
18 ~~utilizing~~ *using* the form contained in subdivision (a) of Section
19 ~~602.56~~ *527.12.*

1 (1) The registration shall be signed under penalty of perjury and
2 state that the property is vacant and is not authorized to be occupied
3 by any person.

4 (2) The registration shall be accompanied with a statement
5 providing the name, address, and telephone number at which the
6 owner can be contacted within a 24-hour period and a statement
7 that either the law enforcement agency or a licensed private security
8 services company has been retained to comply with the inspection
9 and reporting provisions of this section, together with a copy of
10 any agreement or contract to perform those services.

11 (b) The owner or the owner’s agent shall register the vacant
12 property no later than three days after the owner or owner’s agent
13 learns that the property is vacant.

14 (c) The owner or owner’s agent, immediately after authorizing
15 a person to occupy the vacant property, shall do both of the
16 following:

17 (1) Issue a written authorization to the person authorized to
18 occupy the property.

19 (2) Notify the law enforcement agency where the property is
20 registered and terminate the registration.

21 *(d) The owner or the owner’s agent, immediately upon the sale
22 of the vacant property, shall notify the law enforcement agency
23 where the property is registered that the property has been sold,
24 and to terminate the registration.*

25 ~~(d)~~

26 (e) The licensed private security services company or law
27 enforcement agency selected by the owner or owner’s agent
28 pursuant to this section shall do both of the following:

29 (1) Inspect the vacant property not less than once every three
30 days.

31 (2) Immediately notify the law enforcement agency with which
32 the property is registered if any unauthorized person is found on
33 the property.

34 ~~(e)~~

35 (f) The law enforcement agency where the property is registered
36 shall respond as soon as practicable after being notified pursuant
37 to paragraph (2) of subdivision ~~(d)~~ (e) that an unauthorized person
38 is found on the property. The responding officer shall do all of the
39 following:

1 (1) Verify that the property was inspected within the last three
2 days pursuant to paragraph (2) of subdivision ~~(d)~~ (e) and found to
3 be vacant.

4 (2) Ascertain the identity of any person who is found on the
5 property.

6 (3) Require a person who is found on the property to produce
7 written authorization to be on the property.

8 (4) ~~Advise~~ *Notify* any person who does not produce written
9 authorization pursuant to paragraph (3) that he or she has 48 hours
10 to obtain written authorization from the owner of the property, or
11 the owner's agent, to be on the property, and that the person will
12 be subject to arrest for trespass if the person is subsequently found
13 on the property without that authorization.

14 (5) Verify with the owner or the owner's agent that the property
15 is vacant.

16 ~~(f)~~

17 (g) ~~Any~~ *(1) The owner or owner's agent of vacant real property*
18 *may file an action for a temporary restraining order and injunctive*
19 *relief against any person who is found on a the vacant property*
20 *not less than 48 hours after being that person has been notified as*
21 *provided in pursuant to paragraph (4) of subdivision (e) is guilty*
22 *of trespass and, upon conviction, is subject to imprisonment in a*
23 *county jail not exceeding one year, or by a fine not exceeding one*
24 *thousand dollars (\$1,000), or both (f). A person subject to a*
25 *temporary restraining order or an injunction obtained pursuant*
26 *to this subdivision is subject to arrest and imprisonment for*
27 *trespass pursuant to Section 602.5 of the Penal Code for failing*
28 *to vacate the property pursuant to the temporary restraining order*
29 *or injunction and for civil contempt for violating a court order.*

30 (2) *The summons and complaint in an action brought pursuant*
31 *to this subdivision may be served personally or by posting a copy*
32 *of the summons and complaint at a prominent location on the*
33 *property and mailing a copy of the summons and complaint to the*
34 *property's address. Posting and mailing a copy of the summons*
35 *and complaint shall be sufficient service even if the mailed copy*
36 *is returned as undeliverable if the owner or owner's agent has*
37 *proof of the mailing.*

38 (3) *The court may order a hearing on a temporary restraining*
39 *order within three days following service of the summons and*
40 *complaint. The date, time, and location of the hearing may be*

1 included with the summons and complaint or may be separately
2 served on any person occupying the property in the manner set
3 out in paragraph (2).

4 (4) The court may include in any temporary restraining order
5 granted pursuant to this subdivision an order directing that the
6 property be vacated in not less than 48 hours. The order may be
7 enforced by the local law enforcement agency where the property
8 is registered or the county sheriff.

9 (5) The disposition of any personal property of a person subject
10 to a temporary restraining order or an injunction pursuant to this
11 subdivision shall be governed by the procedures set forth in
12 Chapter 5 (commencing with Section 1980) of Title 5 of Part 4 of
13 Division 3 of Civil Code. The person subject to the temporary
14 restraining order or injunction shall be deemed to be a former
15 tenant of the property for purposes of the disposition of personal
16 property only.

17 ~~(g)~~
18 (h) This section shall not be construed to limit an owner from
19 seeking other legal remedies to have a person removed from the
20 vacant property pursuant to any other law.

21 ~~(h)~~
22 (i) ~~The arrest of a person and removal of~~ A temporary
23 ~~restraining order or injunction ordering a person to vacate and~~
24 ~~remove personal property pursuant to the provisions of this section~~
25 ~~is shall not constitute a forcible entry under the provisions of~~
26 Section 1159 of the Code of Civil Procedure.

27 ~~(i)~~
28 (j) The local city council or board of supervisors shall establish
29 fees for registering a vacant property with the local law
30 enforcement agency and for the conduct of inspections by the law
31 enforcement agency pursuant to this section.

32 ~~(j)~~
33 (k) This section ~~shall apply~~ applies only to one-unit to four-unit
34 residences in the Cities of Palmdale and Lancaster in the County
35 of Los Angeles and the City of Ukiah in the County of Mendocino.

36 ~~(k)~~
37 (l) This section shall remain in effect only until January 1, 2018,
38 and as of that date is repealed, unless a later enacted statute, that
39 is enacted before January 1, 2018, deletes or extends that date.

40 SEC. 3. Section 602.56 is added to the Penal Code, to read:

1 ~~602.56.—~~

2 SEC. 3. Section 527.12 is added to the Code of Civil Procedure,
3 to read:

4 527.12. (a) A property owner, or an agent of the property
5 owner, may execute a “Declaration of Ownership” that includes
6 language substantially similar to the language below and file it
7 with the ~~district attorney~~ local law enforcement agency of the
8 jurisdiction in which the property is located. If the property owner,
9 or the agent of the property owner, files the declaration with the
10 ~~district attorney~~ local law enforcement agency, he or she shall also
11 post the declaration on the unoccupied residential property listed
12 in the declaration.

13
14 “DECLARATION OF OWNERSHIP OF RESIDENTIAL REAL
15 PROPERTY

16
17 I, _____, declare and state: I make this
18 declaration based upon my own personal knowledge.

19 1. I am the owner____, or the agent of the owner____(check one),
20 of the residential property located at _____,
21 California (“Property”).

22 2. Submitted with this declaration, and incorporated herein by
23 reference, is a true and correct copy of the deed by which I obtained
24 ownership of the Property.

25 3. Since obtaining ownership of the Property, no ownership
26 interest in the Property has been conveyed or transferred to any
27 other person or entity.

28 4. At the time of obtaining ownership of the Property, no person
29 was occupying the Property and no ownership interest or right of
30 possession in the Property has been conveyed or transferred to any
31 other person or entity.

32 5. As of the present date, there are no persons authorized by me
33 or my agent to reside within the Property. Any persons residing
34 on this Property are doing so without any express or implied
35 authorization from me or my agent.

36 6. I have not entered into any form of lease arrangement, rental
37 agreement, or given any consent whatsoever to any persons to
38 reside within the Property.

1 7. I will advise the ~~district attorney~~ *local law enforcement*
2 *agency* if there is any change in the status of the Property and an
3 occupancy is authorized by me or my agent.

4 8. I declare under penalty of perjury that the foregoing is true
5 and correct.

6
7 EXECUTED on _____, at
8 _____, California”

9 *(b) Notwithstanding Section 47 of the Civil Code, a property*
10 *owner, or agent thereof, who files a declaration pursuant to this*
11 *section that includes false information regarding the right to*
12 *possess the property is liable to any person who, as a result of the*
13 *declaration, is caused to vacate the property, for all damages*
14 *resulting from the person having to vacate the property.*

15 ~~(b)~~
16 *(c) This section shall apply applies only to one-unit to four-unit*
17 *residences in the Cities of Palmdale and Lancaster in the County*
18 *of Los Angeles and the City of Ukiah in the County of Mendocino.*

19 ~~(e)~~
20 *(d) This section shall remain in effect only until January 1, 2018,*
21 *and as of that date is repealed, unless a later enacted statute, that*
22 *is enacted before January 1, 2018, deletes or extends that date.*

23 SEC. 4. The Legislature finds and declares that a special law
24 is necessary and that a general law cannot be made applicable
25 within the meaning of Section 16 of Article IV of the California
26 Constitution because of the unique circumstances in the Cities of
27 Palmdale and Lancaster in the Country of Los Angeles *and the*
28 *City of Ukiah in the County of Mendocino,*, it is first necessary to
29 establish this program in a limited setting to analyze its
30 effectiveness before considering an extension to other local
31 jurisdictions.

32 SEC. 5. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution for certain
34 costs that may be incurred by a local agency or school district
35 because, in that regard, this act creates a new crime or infraction,
36 eliminates a crime or infraction, or changes the penalty for a crime
37 or infraction, within the meaning of Section 17556 of the
38 Government Code, or changes the definition of a crime within the
39 meaning of Section 6 of Article XIII B of the California
40 Constitution.

1 However, if the Commission on State Mandates determines that
2 this act contains other costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

O